



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Dr. H.G. Towle, President
Texas State Board of Examiners in Optometry
Snyder, Texas

Dear Sir:

Opinion No. O-1570

Re: Under the facts set forth would the Board be justified in withholding a license to practice Optometry from Sol J. Rogers?

Your request for an opinion on the above stated question has been received by this department.

Your letter reads, in part, as follows:

"Will you kindly advise this Board whether or not it would be justified in withholding a license to practice Optometry in this state under the following conditions:

"On January 15, 1937, Sol Rubenstein submitted to the Texas State Board of Examiners in Optometry a sworn and subscribed statement, in an application for examination by this Board, that his name was Sol Rubenstein.

"On January 3, 1938, in another application for examination, Sol Rubenstein stated that his name was Sol Rubenstein.

"Under date of July 13, 1939, in the County of Jefferson, State of Texas, Sol. J. Rogers made application to this Board for examination for license to practice Optometry. Before filing his application on July 13, 1939, the said Sol Rubenstein had his name legally changed to Sol J. Rogers by the District Court of Jefferson County, in Cause No. 54,745. The Board has

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permitted the applicant, under the name of Sol. J. Rogers, to take the examination subject to approval after obtaining a ruling from your department. Rogers has passed the examination, and the question now is whether or not he is entitled to a license.

"Several months ago there was a complaint filed in Harris County against Sol. J. Rogers for practicing Optometry without a license. On two different complaints the charges were dismissed, at the request of the District Attorney, and on the third complaint the defendant, Sol. J. Rogers, was found not guilty."

Articles 5928 and 5930 of the Revised Civil Statutes read as follows:

"Art. 5928. Whoever desires to change either his Christian or surname, or both, and to adopt another name instead, shall file his application in the district court of the county of his residence, setting forth the causes for such desire. The judge of said court, if in his opinion it is for the interest or benefit of the applicant to so change his name shall decree that the adopted name of the party shall be substituted for the original name."

"Art. 5930. Whenever any person shall change his original name and adopt another, it shall not operate to release him from any responsibility which he may have incurred by the original name nor defeat or destroy any rights or property or action which the person had or held in his original name."

Referring to examinations by the State Board of Examiners in Optometry, Article 4559 reads as follows:

"Each applicant shall be given due notice of the date and place of examination. All examinations shall be conducted in writing and by such other means as the board shall deter-

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mine adequate to ascertain the qualifications of applicants, and in such manner as shall be entirely fair and impartial to all individuals and ever recognized school of optometry. All applicants examined at the same time shall be given identical questions. The board may refuse to admit persons to its examination or to issue licenses for any of the following reasons:

"1. The presentation to the board of any untrue statement or any document or testimony which was illegally or fraudulently obtained, or when fraud or deceit has been practiced in passing the examination.

"2. Conviction of a felony, or of a misdemeanor which involves moral turpitude.

"3. Other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public, or for habits of intemperance or drug addiction. Any applicant who may be refused an examination or a license, after legal notice and a full and impartial hearing, shall have his right of action to have such issue tried in the district court of any county in which one of the members of the board shall reside."

Article 4586, supra, provides that the board may refuse to admit persons to its examination or to issue licenses for any of the reasons therein stated. However, under the statement of facts presented in your inquiry, none of the reasons exist which would permit the board to withhold license to practice optometry from Sol. J. Rogers.

Therefore, you are respectfully advised that it is the opinion of this department that the Texas State Board of Examiners in Optometry would not be justified or have the authority to withhold a license to practice optometry from Sol. J. Rogers.

Trusting that the foregoing fully answers your

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inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

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APPROVED SEP 13, 1939

Ernest B. Mann

ATTORNEY GENERAL OF TEXAS

